



**TOWN OF LAUDERDALE-BY-THE-SEA
CHARTER REVIEW BOARD MEETING**

Jarvis Hall

4505 Ocean Drive

Tuesday, February 4, 2025

6:00 PM

1. CALL TO ORDER

The Charter Review Board for the Town of Lauderdale-By-The-Sea was called to order at 6:09 p.m. Board members present were Jacquelyn Bonanni-Rubino, Robert Fleishman, Brian Kuszmar, Lori Lenoble, Kym Miranda, and Chris Vincent. Also present were Town Manager Linda Connors, Town Attorney Susan L. Trevarthen, and Board Clerk Megan Small.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. APPROVAL OF MINUTES

None.

4. PUBLIC COMMENTS

None.

5. NEW BUSINESS

Town Manager Linda Connors welcomed the members of the Charter Review Board, emphasizing the significance of this advisory body. The Town's Charter is reviewed every 10 years. Board members are asked to examine this document and make thoughtful and thorough recommendations for any changes and updates.

a. Oath of Office

Board Clerk Megan Small provided the members with copies of the Oath of Office for their signatures and administered the Oath at this time.

b. Appointment of Chairperson

Mr. Fleishman nominated former Mayor Chris Vincent as Chair. Mr. Kuszmar seconded the nomination. In a show of hands, Mr. Vincent was unanimously elected as Chair.

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c. Appointment of Vice-Chairperson

Mr. Fleishman nominated Brian Kuszmar as Vice Chair. Ms. Bonanni-Rubino seconded the nomination. In a show of hands, Mr. Kuszmar was unanimously elected Vice Chair.

d. Training – Public Records, Sunshine Law & Ethics

Town Attorney Susan Trevarthen introduced Judelande Jeune, an associate with her firm, who provided training for the Board members. She began with the Sunshine Law, which is governed by Section 286.011 of Florida Statutes. It states that all meetings of any board in the state of Florida must be open to the public, reasonable notice must be provided, and minutes must be taken.

The purpose of the Sunshine Law is to ensure that decisions by a public body are made in an open forum that is accessible to the public. A decision is defined as an official action which may include but is not limited to recommendations, discussions, and deliberations. A meeting is defined as any formal or informal gathering of two or more members of the same body to discuss matters that may foreseeably be included in an upcoming agenda. A quorum is not necessarily required to constitute a meeting, and the members must be on the same board. The location of the meeting is not relevant and includes contact in writing, such as email or social media.

The subject matter to be discussed at a meeting includes any matters which may foreseeably come before an advisory body for discussion. In the case of the Charter Review Board (CRB), this may include current Charter provisions, proposed Charter amendments, and other aspects of Town business that interact with or implement the Charter.

Attorney Jeune offered the example of two or more members of the CRB attending a civic association meeting. If more than one member of the CRB is present, that can be considered a meeting. She advised against this activity, recommending that if two members attend a meeting and are asked, for example, to provide an update on CRB business, one of the two members must step outside to ensure no meeting has occurred.

Board members may not conduct private discussions of Board business over the telephone or email. A Board member may send only a one-way communication without violating the Sunshine Law.

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Consequences for violations of the Sunshine Law include fines not to exceed \$500. A knowing violation of the Sunshine Law means the member in violation could be found guilty of a misdemeanor of second degree per Florida Statutes. Individuals who violate the Sunshine Law may be subject to jail time and a fine as well as responsibility for court fees.

A question was asked regarding how Board members are permitted to communicate with one another outside of meetings. Town Attorney Trevarthen advised that the best means of communication is on the record at Board meetings. Should an issue arise between meetings, Town Staff may serve as a conduit for communication to the Board members. She emphasized that members responding to emails, for example, may communicate only with Staff members rather than with one another.

Town Attorney Trevarthen continued that the Board members may choose to create their own separate email addresses for the purposes of Board business. All Town communications would go through these separate addresses.

Attorney Jeune continued that Public Records Law is governed by Florida Statute Chapter 119. Public records include all documents, including letters, maps, films, photos, and recordings made or received pursuant to law or Ordinance in connection with the transaction of official business. These records are considered relevant even if they are not stored in a Town-owned property: while they may be stored in personal email accounts, once that email account has been used to send an email related to Board business, it becomes a public record.

Digital records include information stored in a public agency's computer. Notes taken by Board members would be considered part of the public record. Email messages made or received by an agency employee in connection with official business are also public record, such as emails sent by the Board Clerk.

Other items considered to be public record include texts and social media posts on any platforms. Any posts, images, or other materials which meet the standards for public records must be retained throughout the course of the individual's participation on the Board, as well as for an established period after service on the Board has concluded. The Town Clerk will oversee most public record requests and work with members if necessary to provide those records.

If a public records request is made, the requester is not required to show a legitimate or non-commercial interest as a condition of access. Should a public records request be

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made of the CRB, it does not have to be consistent with the purpose served by the Board. Unless authorized by another statute, an agency may not require that public records requests be submitted in writing, and the requester is not required to share their identity.

When a public records request is made, the custodian of records must promptly acknowledge it and respond in good faith. There is a timeline by which reasonable efforts must be made to provide the record.

In order for an agency to withhold a record from disclosure, it must be under statutory exemption. Only the Florida Legislature may create these exemptions. Examples of exemptions are included in Chapter 119 of Florida Statutes and include information such as bank account, credit card, or Social Security numbers. Items not considered to be public records do not need to be provided by Board members. There is also a difference between public and confidential records.

Chair Vincent asked if it would be best for Staff to establish email addresses specifically intended for use in Board business. Staff would also be able to monitor these addresses should it become necessary for purposes related to public records requests. Town Manager Connors confirmed that the Town can provide email addresses. There was consensus from the Board members to proceed in this manner.

Town Attorney Trevarthen clarified that this would mean the Board members will be provided with Town email addresses. If there is an inquiry into public records, this could be handled directly by the Town. The addresses are to be used for Board business only and can be posted to the Town's website.

Attorney Jeune next addressed Ethics Law, which is governed by Chapter 112 of Florida Statutes. Ethics are defined as of or relating to moral actions, conduct, motive, or character professionally right or befitting. Members are encouraged to reach out to the Town Attorney with any ethical concerns or questions.

Ethics as discussed in the Florida Constitution are primarily related to requirements for financial disclosure and reporting, campaign finance reporting, and imposing the forfeiture of pensions. Local governments, as well as Broward County, have different ethics rules that must also be followed. The Code of Ethics for public officers and employees is governed by Chapter 112 of Florida Statutes.

Attorney Jeune advised that most ethics issues the Board may encounter will involve voting conflicts of interest. Individuals may not participate or vote on an item if that vote

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would mean they receive special or private gains. This conflict would also apply to close relatives or business associates.

When a conflict exists, the Board member must disclose the nature of the conflict in advance of the meeting or as soon as they discover it. If a conflict is perceived, the member should contact Town Staff. The individual must also publicly announce the nature of the conflict before the item is heard, and must refrain from participating in discussion of the item. They must also file a memo of conflict with the Board Clerk within 15 days after the vote occurs.

There are also restrictions in Florida Statutes on the receipt of gifts if that gift is related to the work done by the Board. Gifts with a value of less than \$100 do not need to be reported; if a gift is over \$100 and is not given by a political committee, lobbyist, or vendor, it may be accepted but must be reported. Gifts over \$100 from one of those three entities may not be accepted. Board members may not solicit or accept anything of value from any party based upon the understanding that their vote, official action, or judgment would be influenced.

Penalties for violating Ethics Code include impeachment, public censure, or reprimands. There may also be civil penalties which may not exceed \$10,000. Town Code also permits removal of advisory body members from those advisory entities as a penalty.

The Florida Commission of Ethics provides rules and guidelines which determine voting conflict or ethics violation. The Broward County Inspector General may also investigate ethics violations.

Chair Vincent asked if it would be necessary for the CRB to implement a Code of Conduct which may follow the requirements of the Commission on Ethics. Town Attorney Trevarthen replied that she did not see a need for a Code of Conduct, as the ethics requirements are generally applicable rules applying to advisory bodies. The County rules do not apply to Board members.

e. Board Rules and Procedures

Town Attorney Trevarthen explained that the CRB will follow the same meeting procedures as the Town Commission, as the community is familiar with those procedures. This means a majority of four members would be considered a quorum. Staff also recommends a limit of two unexcused absences for members due to the limited time that the CRB will be active.

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With regard to placing items on the Agenda, a Board member may bring forward an item for consideration, and the Board would vote on whether or not to hear this item. If a member of the public is in attendance and proposes the addition of an item, Staff recommends that the Board first discuss whether or not they wish to take up that item or not. If so, Staff would prepare backup information on that item and schedule it for placement on an Agenda.

Proposed meeting dates are based on previous coordination between Staff and the Board members. Meetings will be held on the first Tuesday of each month. These dates were included in the members' backup materials. Town Attorney Trevarthen noted that the Town typically takes a recess from public meetings during the month of August, which means the Board may determine whether they would like to follow the same practice. In addition, the September 2025 meeting date immediately follows the Labor Day holiday, and the Board may wish to adjust that date.

The CRB is expected to complete its work by April or May 2026. This gives them ample time to make recommendations to the Commission for their deliberation and possible proposal as Ordinances in time to place those items on the November 2026 ballot.

Chair Vincent noted that even if an item discussed by the Board is not recommended to the Commission, the Commission may look at and consider that item. Town Attorney Trevarthen confirmed that the CRB's function is to provide their best judgment to the Commission. At the conclusion of the Charter review process, the Commission will ultimately decide how to proceed with the results of the Board's work. They may not move forward with all items recommended by the Board, or may take up items the Board discussed but did not recommend.

A correction was noted to p.9 of the Board Rules and Procedures: the recommended quorum is four rather than five members.

A question was also asked regarding whether or not Board members may discuss Board business with members of the Town Commission. Town Attorney Trevarthen explained that members may speak with individual Commissioners as much as they like without violating the Sunshine Law. This is because the Board members serve a different public advisory body from the Commission. She cautioned, however, that both the Board member and the Commissioner must take care not to serve as a conduit between the two entities.

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A motion was made, and duly seconded, to approve the Board Rules and Procedures as listed. Motion carried 6-0.

f. Agenda Topics

Town Attorney Trevarthen advised that Town administration has made two requests of the Town Commission regarding the CRB:

- That the Board review the Charter requirement to complete the Town's audit by March of each year, which is significantly earlier than what is required by state law
- That the Board consider the adoption of the "plain English" version of Section 7-1 of the Charter

The Commission agreed to have the CRB address both of these items.

Town Attorney Trevarthen explained that the current language in Section 7-1 is dense and complex. The previous Charter Review Board had struggled with this Section and requested that it be translated into clearer, more understandable language. She had worked with the Board to develop a recommended version, although the Commission ultimately did not choose to place that item on the ballot. The Town continues to refer to the recommended language to help with the day-to-day administration of Section 7-1.

In addition to those two specific requests, the Board will adopt a similar process to what was done by the previous CRB. They will address the Charter bit by bit, beginning with one to two Sections at the March 2025 meeting. Staff would prepare documentation with the relevant information about those Sections and provide a brief introduction to them for the Board. The Board will then discuss the Sections and determine whether or not to move forward with any proposed changes. This may take multiple meetings.

Chair Vincent recommended proceeding in numerical order through the Sections of the Charter. Town Attorney Trevarthen noted that the two items requested by the Commission would be folded into discussion of their Sections.

6. OLD BUSINESS

None.

7. UPDATES / BOARD MEMBER COMMENTS

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It was requested that the process for placing an item on a meeting Agenda be further clarified. Town Attorney Trevarthen replied that if Sections 1 and 2, for example, are to be discussed at the March meeting, Staff would take members' suggestions on those two Sections at that meeting. Another option is for the members to have a more open dialogue at the March meeting to discuss items which they would like to address. Members may reach out to Town administration or the Board Clerk with these requests as well. There may also be time scheduled at future meetings for a more wide-ranging conversation on these items.

Town Manager Connors stated that the information packet printed for the Board members is also available online. Staff typically sends members an email including a link to that packet; if they would prefer a printed copy, this may be provided and delivered to the members' homes the Friday before each meeting.

Chair Vincent asked if it would be possible to provide the link or physical copy at an earlier date, such as the Wednesday before each meeting, to allow for more review time. Town Manager Connors confirmed that Staff would try to meet this goal, and if it is not possible, would send an email to the members advising them to expect the link or copy on Friday.

Town Manager Connors added that she would email the Board members with their Town email addresses.

A question was asked whether the Agenda for each meeting will be posted on the Town's website. It was confirmed that this will be done as part of the public notice process.

8. ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 7:04 p.m.

Chris Vincent

Chairperson Chris Vincent

Megan Small

Megan Small, Clerk

4/17/2025 | 10:10 AM EDT

Date Signed